

APPENDIX B: AUTHORITIES

The following are the authorities that provide the legal basis for this District Response Plan.

District

1. D.C. Law 3-149, effective March 5, 1981, D.C. Official Code sec. 7-2301 *et seq.* (2001), Public Emergencies.
2. D.C. Official Code sec. 7-2201 *et seq.*, Civil Defense Declaration of Intent.
3. D.C. Official Code sec. 7-2209, Civil Defense Compacts.

Federal

1. Public Law 81-686, Chapter 686, approved August 11, 1950.
2. Public Law 81-873, approved September 30, 1950.
3. Public Law 81-875, 1950, States and Local Governments—Federal Aid.
4. Public Law 81-920, the Federal Civil Defense Act of 1950, as amended, provides a system for joint capability building at the federal, state, and local levels for all hazards
5. Public Law 83-343, approved April 22, 1954.
6. Public Law 84-99 (33 USC 701n), Flood Emergencies, authorizing an emergency fund for flood emergency preparation, flood fighting and rescue operations, or repair and restoration of flood control works threatened or destroyed by flood
7. Public Law 85-256, Price-Anderson Act, which provides for a system of compensating the public for harm caused by a nuclear accident
8. Public Law 89-665 (16 USC 470 *et seq.*), National Historic Preservation Act, relating to the preservation of historic resources damaged as a result of disasters
9. Public Law 91-671, Food Stamp Act, in conjunction with Section 412 of the Stafford Act, relating to food stamp distributions after a major disaster
10. Public Law 93-234, Flood Disaster Protection Act, as amended, provides insurance coverage for all types of buildings
11. Public Law 93-288, as amended, which provides authority for response assistance under the National Response Plan, and which empowers the President to direct any federal agency to utilize its authorities and resources in support of state and local assistance efforts

12. Public Law 95-124, Earthquake Hazards Reduction Act of 1977, designed to reduce the risk to life and property from future earthquakes
13. Public Law 95-510, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, which requires facilities to notify authorities of accidental releases of hazardous materials
14. Public Law 96-342, approved September 8, 1980, Improved Civil Defense.
15. Public Law 99-499, Superfund Amendments and Reauthorization Act (SARA) of 1986, which governs hazardous materials planning and right-to-know
16. Public Law 101-549, Clean Air Amendments of 1990, which provides for reductions in pollutants
17. Public Law 101-615, Hazardous Materials Transportation Uniform Safety Act, which provides funding to improve capability to respond to hazardous materials incidents
18. Stewart B. McKinney Homeless Assistance Act, 42 USC 11331-11352, Federal Emergency Management Food and Shelter Program
19. Older American Act of 1965, as amended, reimburses states for social services provided to older Americans following a Presidential Declared disaster
20. National Flood Insurance Act of 1968, 42 USC 4001 ET seq.
21. Weapon of Mass Destruction, Title 18, U.S.C. 2332a
22. Homeland Security Act of 2002
23. Homeland Security Presidential Directive-5, *Management of Domestic Incidents*
24. Maritime Safety Act of 2001
25. Aviation and Transportation Security Act of 2001
26. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121 *et seq.*) (88 Stat. 143) (The Stafford Act.)

Summary of District of Columbia Official Code Provisions Related to Emergency Planning and Operations

DIVISION 1 — GOVERNMENT OF THE DISTRICT

§ 1-204.11. Subsection (b) provides that the chairman of the D.C. Council acts as the Mayor when the Office of the Mayor is vacant.

§ 1-204.22. Provides for the general powers, duties, and functions of the mayor to execute laws and administer the affairs of the District, including authority to designate officer(s) who may execute and perform the powers and duties of the mayor during periods of disability or absence from the District, administer the personnel functions of the District, delegate functions, propose legislation, and issue and enforce administrative orders.

§ 1-204.23. Provides that the mayor shall be the central planning agency for the District, coordinating municipal government planning activities and the preparation and implementation of District elements of the comprehensive plan for the Nation's Capital.

§ 1-204.50a. Subsection (a) Establishes an emergency cash reserve fund that may be used for unanticipated and nonrecurring extraordinary needs of an emergency nature, including a natural disaster or calamity as defined by the Stafford Act or in the event of a state of emergency declared by the mayor. **Subsection (b)** Establishes a contingency cash reserve fund to be used for nonrecurring needs, including expenses associated with unforeseen weather or other natural disasters, unexpected obligations created by federal law, or new public safety or health needs or requirements.

§ 1-207.31. Provides for the exchange of services between the United States government and District government, by mutual agreement, with cost reimbursement to be provided other than for costs incurred by the Metropolitan Police Department in assisting the Secret Service, at the request of the Director, to carry out the Secret Service's protective duties.

§ 1-303.01 - .03. Provides police regulatory authority, authorizing the Council to make and modify, and the mayor to enforce, such reasonable and usual police regulations as are set forth therein or as the Council deems necessary for the protection of lives, limbs, health, comfort, and quiet of all persons and protection of all property within the District.

§ 1-303.42. Authorizes the mayor, pursuant to Council regulations, to expend funds without advertising to meet conditions caused by emergencies such as riot, pestilence, public unsanitary conditions, flood, fire, storm, and similar disasters.

§ 1-319.01 - .02. Establishes District policy to use volunteer citizens in governmental programs and directs the mayor to promulgate regulations governing the use of volunteers by District government entities.

§ 2-303.12. Authorizes contracting officers to make emergency procurements when there is an imminent threat to the public health, welfare, property, or safety under emergency conditions, as defined by rule, with maximum practical competition.

§ 2-904. Establishes the District's Office of Energy. **Subsection (g)** provides that the Office shall prepare an emergency energy shortage contingency plan designed to protect the public health, safety, and welfare, minimize the adverse impact on the physical, social, and economic well-being of the District, and provide for the fair and equitable allocation of scarce energy resources during emergency energy shortages, including reduced energy use during a state of emergency declared by the Mayor.

§ 2-1105. Defines the "Washington metropolitan region" to include the District, the counties of Montgomery and Prince Georges in the State of Maryland, and the counties of Arlington and Fairfax and the cities of Alexandria and Falls Church in Virginia.

§ 5-127.04. Vests the Mayor and members of the police force with the common-law powers of constables, with minor exceptions.

§ 5-123.03. Authorizes the Mayor, upon an emergency of riot, pestilence, invasion, insurrection, or during any day of public election, ceremony, or celebration, to appoint citizen special police, without pay, who shall exercise the powers and duties of District police officers.

§ 5-133.05. Provides that District laws and regulations for the protection of public or private property and the preservation of peace and order extend to public buildings and grounds belonging to the United States within the District.

§ 5-133.17. Authorizes cooperative agreements between the Metropolitan Police Department and federal law enforcement agencies to assist the Department in carrying out crime prevention and law enforcement activities.

§ 5-301. Shields federal law enforcement officers, from agencies that have entered into a cooperative agreement with the Metropolitan Police Department pursuant to § 5-133.17 that provides authority to make arrests in the District for nonfederal offenses, with the same legal status and immunity from suit as an MPD officer.

§ 5-414. **Subsection (a)** authorizes the Council to enter into and renew reciprocal agreements with Washington metropolitan region jurisdictions to establish and carry out a plan of mutual aid, through the furnishing of firefighting personnel and equipment, to extinguish fires and preserve life and property in emergencies in such jurisdictions. **Subsection (b)** requires that the parties waive claims against the other parties and indemnify and save harmless the other parties from third party claims. **Subsection (c)** authorizes the Mayor to make available to the federal government District Fire Department personnel and equipment to extinguish fires and save lives on federal property anywhere in the Washington metropolitan region.

§ 5-417.01. Authorizes the Fire Chief and the Fire Marshal to investigate the causes, origin, and circumstances of every fire, explosion, or hazardous materials emergency in which the Fire Department has a reasonable interest. The Metropolitan Police Department, however, shall be the primary investigative agency for such incidents that involve critical injury, death, or assaults with intent to kill. The Fire Marshall and such other personnel designated by the Fire Chief are invested with the general police powers, including arrest, as regular members of the MPD.

§ 5-1307. Makes it unlawful for any person to knowingly, recklessly, or with culpable negligence interrupt, disrupt, impede, or otherwise interfere with the transmission of a two-way radio communication informing or inquiring about an emergency or to transmit false information about an emergency on any two-way radio frequency.

§ 7-131. – 140. Provides legal authority to prevent the spread of communicable disease. The Mayor is authorized, upon the advice of the Commissioner of Public Health (now the Director of the Department of Health), to issue rules to prevent and control the spread of communicable diseases, including requirements and procedures for restriction of movement, isolation, and quarantine. Persons believed to be carriers of communicable diseases who are a danger to the lives and health of others may, by written order of the Director of the Department of Human Services, be detained in an institution or place designated by the Director. Such person may be detained, provided that specified legal protections are provided, until such person is no longer a threat to the public health and safety. In carrying out these provisions, the Director has broad powers to access buildings for inspection. Anyone who interferes with persons carrying out duties and functions related to carrying out the authority of **Subsections 131 to 140** has committed an unlawful act.

§ 7-2201. Provides a statement of congressional intent that the District shall develop plans and programs to provide necessary protection, relief, and assistance for persons and property in the event that enemy attack, sabotage, or other hostile action shall occur or become imminent.

§ 7-2202.0 – 2208. Establishes in the District government an Office of Emergency Preparedness (designated the Emergency Management Agency by Mayor's Order 98-189, Jan. 8, 1999, hereinafter referred to as EMA). EMA is authorized and directed, subject to the discretion and control of the Mayor, to: (1) prepare a comprehensive plan and program for civil defense, to be integrated into federal civil defense plans and those of nearby states and appropriate political subdivisions; (2) institute training and public information programs, organize, equip, and train civil defense units, and take other preparatory steps in advance of actual disaster; (3) conduct studies and surveys of District civil defense resources and capabilities and plan for the emergency use thereof; (4) develop and enter into mutual aid agreements with states and political subdivisions thereof for reciprocal civil defense aid and mutual assistance, consistent with the national civil defense plan and program; (5) employ personnel and expend funds; (6) cooperate with governmental and nongovernmental agencies, organizations, associations, and other entities to coordinate civil defense activities in the District; (7) accept facilities, supplies, and funds from the federal government; (8) use services, supplies, and facilities of District departments, offices, and agencies and, when

authorized by the Mayor, use District funds to match federal funds for the purchase of civil defense equipment and supplies; and (9) perform such other functions as the Mayor may assign.

§ 7-2209. Authorizes the Mayor to enter into and execute to interstate civil defense compacts with the states and sets forth the substance of the language to be used for such compacts.

§ 7-2301. Defines terms, including “Emergency operations plan” and “Public emergency.” Emergency operations plan means the District’s state plan for public emergency preparedness and prevention pursuant to the Disaster Relief Act of 1974 and **§ 7-2302.**

§ 7-2302. Public emergency means any disaster, catastrophe, or emergency situation where the health, safety, or welfare of persons in the District is threatened by reason of the actual or imminent consequences within the District of: (1) enemy attack, sabotage, or other hostile action; (2) severe and unanticipated resource shortage; (3) fire; (4) flood, earthquake, or other serious act of nature; (5) serious civil disorder; (6) any serious industrial, nuclear, or transportation accident; (7) explosion, conflagration, or power failure; or (8) injurious environmental contamination which threatens or causes damage to life, health, or property.

§ 7-2302. – 2303. Authorizes the Mayor to establish a program of public emergency preparedness using appropriate District agencies, to include: (1) the development of an emergency operations plan that sets forth a program to prepare for and provide assistance necessary for regulations and procedures, and the conduct of exercises; (2) post public emergency evaluations; (3) periodic program review; and (4) coordination of federal and public notice requirements and transmittal to the Council for review and approval or disapproval.

§ 7-2304. – 2308. Governs the issuance of emergency executive orders by the Mayor, their duration and extension, publication requirements, and other authority. The Mayor is authorized under **§ 7-2304** to issue an emergency executive order upon reasonable apprehension of the existence of a public emergency and a determination that such order is necessary for the immediate preservation of the public peace, health, safety, or welfare, and as a prerequisite to requesting emergency or major disaster assistance under the Disaster Relief Act of 1974. Such order shall define: (1) the existence, nature, extent, and severity of the public emergency; (2) the measures necessary to relieve the public emergency; (3) the specific requirements of the order and the persons upon whom the order is binding; and (4) the duration of the order. Upon issuing the order the Mayor may issue an emergency executive order, which shall state:

- (1) Expend appropriated funds to carry out public emergency service missions and responsibilities;
- (2) Implement provisions of the emergency operations plan without regard to certain operating procedures;
- (3) Implement measures to protect persons and property in the District, including evacuation of persons in the District to District emergency shelters or to shelters outside of the District with the approval of the Governor of the

- receiving state, and to provide for the reception, sheltering, maintenance and care of such evacuees. Evacuation of any personnel or activity of the federal government requires the consent of the President or be conducted pursuant to a prearranged evacuation plan;
- (4) Require the shutting off, disconnection, or suspension of service from, or by, gas mains, electric power lines, or other public utilities;
 - (5) Destroy or remove from the District contaminated real or personal property;
 - (6) Issue orders or regulations to govern the use, sale, production, and distribution of food, fuel, clothing, and other commodities, materials, goods, services, and resources as required by the emergency operations plan or any federal emergency plan;
 - (7) Direct the hours during which business can be conducted and direct persons or classes of persons to remain off the public streets if a curfew is required;
 - (8) Establish public emergency service units;
 - (9) Expand District governmental units concerned with public emergency services;
 - (10) Exercise operational direction over all District departments and agencies;
 - (11) Procure supplies and equipment, institute training and public information programs and take other steps to insure adequately trained and equipped personnel;
 - (12) Request predicator assistance or the declaration of a major disaster from the federal government, certify the need for federal disaster assistance, and commit needed District funds to alleviate the damage, loss, hardship, and suffering resulting from the disaster; or
 - (13) Prevent or reduce harmful consequences of the disaster.

The Mayor is also authorized under **§ 7-2305** to issue regulations or recommend specified legislation to the Council. **§ 7-2306** provides that an emergency order can be effective for no more than 15 calendar days after it is signed by the Mayor, can be rescinded if the emergency abates, and can be extended for up to an additional 15 days, upon request of the Mayor, if the Council adopts an emergency act. Provisions are made for extenuating circumstances, publication of emergency orders, adoption of implementing rules and regulations, and inter-jurisdictional coordination. **§ 7-2307** Provides a fine for the violation of an emergency executive order and **§ 7-2308** suspends the District's Administrative Procedure Act for actions taken pursuant to an emergency order until after the expiration date of the order.

**KEY WORD INDEX TO D.C. CODE EMERGENCY PLANNING AND
OPERATIONS PROVISIONS (by D.C. Code §)**

BUSINESS HOURS: 7-2304. – 2308.

COMMUNICABLE DISEASES: 7-131. - 140.

COUNCIL—POWERS AND DUTIES: 1-303.01 – 03.; 1-301/42.; 5-414.

CURFEW: 7-2304. – 2308.

EMERGENCY EXECUTIVE ORDER: 7-2304. – 2308.

EMERGENCY MANAGEMENT AGENCY: 7-2202. – 2208.

EMERGENCY OPERATIONS PLAN: 7-2301.; 7-2302. – 2303.; 7-2304. – 2308.

EMERGENCY PLANNING: 2-904.; 7-2201.; 7-2202. – 2208.; 7-2301.

EMERGENCY RADIO: 5-1307.

ENERGY RESOURCES: 2-904.

EVACUATION: 7-2304. – 2308.

FEDERAL GOVERNMENT: 1-207.31; 5-133.05; 5-301.; 7-2302. – 2303.; 7-2304. – 2308.

FIRE DEPARTMENT: 5-417.01.; 7-2304. – 2308.

FUNDS: 1-303.42.; 1-303.50A.; 2-302.12; 7-2304. – 2308.

INTERJURISDICTIONAL COMPACTS, AGREEMENTS, and COOPERATION: 5-414.; 7-2209.; 7-2302. – 2303.

ISOLATION: 7-131. – 140.

LAW ENFORCEMENT AUTHORITY: 1-303.01. - .03.; 5-127.04.; 5-417.01.

MAYOR – POWERS AND DUTIES: 1-204.22.; 1-204.23.; 1-303.01. - .03.; 1-303.42.; 5-127.04.; 5-414.; 7-131. – 140.; 7-2209.; 2-2302. – 2303.; 7-2304. – 2308.

METROPOLITAN POLICE DEPARTMENT: 1-207.31.; 5-133.17.; 5-301.

MOVEMENT – RESTRICTIONS: 7-131. – 140.

PLANNING – GENERAL: 1-204.23

PROCUREMENT: 2-303.12.; 7-2304 – 2308.

PROPERTY – DESTRUCTION AND REMOVAL: 7-2304. – 2308.

QUARANTINE: 7-131. – 140.

RATIONING: 7-2304. – 2308.

SUCCESSION IN OFFICE – MAYOR: 1-204.11(B).

UTILITIES: 7-2304. – 2308.

VOLUNTEERS: 1-319.01. – 02.; 5-129.03.

WASHINGTON METROPOLITAN REGION: 2-1105.

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